

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on February 8, 2001 at 3:00 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Bob DePratu (R)
Sen. Dan Harrington (D)
Sen. Sam Kitzenberg (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Marion Mood, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 300, 1/29/2001; SB 320,
1/25/2001
Executive Action: SB 318; SB 320; SB 3; SB 300

HEARING ON SB 300

Sponsor: VICE CHAIRMAN RIC HOLDEN, SD 1, Glendive

Proponents: Dave Galt, Montana Department of Transportation
Patrick Heffernan, Montana Logging Association

Bob Stephens, Montana Grain Growers Assn.
Nancy Schlepp, Montana Farm Bureau

Opponents: **None**

Opening Statement by Sponsor:

VICE CHAIRMAN RIC HOLDEN, SD 1, Glendive, introduced SB 300 and explained how this bill would enable the governor to issue an executive order to exempt vehicles from weight and size limitations during certain emergency conditions. He told how it is often difficult to respond to natural disasters because of old and cumbersome legislation. To illustrate that point, he recounted how in 1996, too much rainfall delayed the grain harvest and then, when it did take place, farmers were faced with an early frost and lost much of their harvest because they could not bring it in fast enough. When North Dakota was faced with a similar situation, their governor issued an executive order to lift the weight limits of farm vehicles and ordered an accelerated and immediate harvest. In Montana, farmers struggled to bring in that year's grain crop before it was totally spoiled because their governor did not have such a venue open to him. He also pointed to the fires of 2000, and said the Department of Transportation had to work very hard to get vehicles into compliance so they could be dispatched to the stricken areas. This bill would give our governor the authority, after consulting with the heads of the appropriate departments, to issue an executive order to lift weight and size limits of vehicles.

Proponents' Testimony:

Dave Galt, Department of Transportation, felt this bill was a valuable tool, and commended **VICE CHAIRMAN HOLDEN** for taking the sensible approach of putting the responsibility on the director of the Department of Transportation, or any other agency, who then has the authority to fine-tune and set conditions. One caveat he mentioned was the wording on line 12 of SB 300 where it says "upon a request of the director of the Department of Transportation or any other agency involved". He wanted this to read "and" instead of "or" because this should remain a partnership.

Patrick Heffernan, Montana Logging Association, thanked the sponsor for bringing this bill forward. The fires of 2000 were a real challenge for the timber industry in many ways, especially the mobilization of equipment during the emergency. He felt this would be a very important tool for the governor and the department, allowing either overweight or oversized equipment on the highways. He cited the example of a bulldozer which under

current law has to be disassembled, and felt it would greatly speed up mobilization time if this could be avoided. In closing, he wondered if there had to be a separate regulation which applied to the federal highway system.

Bob Stephens, Montana Grain Growers' Association, rose in support of SB 300 for the aforementioned reasons and said he also spoke for **Barry "Spook" Stang, Montana Motor Carriers' Association**.

Nancy Schlepp, Montana Farm Bureau, stated that her organization also stood in support of SB 300.

Questions from Committee Members and Responses:

SEN. VICKI COCCHIARELLA, asked that **Dave Galt** respond to the issue regarding the federal highway system. **Dave Galt** answered that the roads which would be impacted were Interstates 15, 90, and 94, and he admitted the possibility that this authority might not extend to these highways. He pointed to a statute that says the state cannot do anything regarding weight and size limitations that would jeopardize federal funds.

Closing by Sponsor:

VICE CHAIRMAN HOLDEN closed on SB 300 and said even if we cannot lift the weight restrictions on the interstate highways, we can address this issue on the state highways and thus help mitigate the impact from emergencies.

HEARING ON SB 320

Sponsor: **SEN. SAM KITZENBERG, SD 48, Glasgow**

Proponents: **Bob Stephens, Montana Grain Growers' Assn.**
Mike Allen, Allen Oil
Nancy Schlepp, Montana Farm Bureau
Con Malee, Energy West

Opponents: **Steve Turkiewicz, Montana Auto Dealers' Assn.**

VICE CHAIRMAN HOLDEN presided over the remainder of the meeting, **CHAIRMAN ARNIE MOHL** was excused.

Opening Statement by Sponsor:

SEN. SAM KITZENBERG, SD 48, Glasgow, introduced SB 320 which would require the Department of Transportation to purchase vehicles which utilize ethanol-blended fuels, and offered **EXHIBIT(his32a01), EXHIBIT(his32a02).** And **EXHIBIT(his32a03).** They show that utilization of an ethanol-blended fuel was first introduced in 1991, and he said not much has happened since. After a similar bill he introduced in 1999 failed, he asked the department what it would take to get them to try this and was told that the cars had to be competitive but nothing was done to find out whether they would be. With SB 320, he is asking the department to purchase 21 cars, out of the 800 they own, in which to use ethanol. He was proud to say that Gov. Judy Martz had asked for an ethanol-fueled car from the department. He suggested these could be used primarily in Helena, Billings, and Missoula. He pointed to a couple of inaccuracies in the fiscal note, namely the price of the cars, fuel cost, and availability of this fuel. He maintained that an ethanol car costs the same as a regular car. The second point of contention was the price of the fuel, and he said he would have a proponent address that issue. The third point was the availability of ethanol blended fuel, and he stated that there are 45 stations in Montana that carry the blend, and two more who have applied.

Proponents' Testimony:

Bob Stephens, Montana Grain Growers' Association, rose in support of SB 320. He told the committee that Montana's first ethanol plant in Great Falls was in the process of getting financing, and that Growth through Agriculture has provided \$50,000 for a study for a plant in Miles City. He also mentioned another group that was taking a closer look at building several plants around the state. This would make ethanol fuel more readily available in Montana, and he asked for support of SB 320.

Mike Allen, owner, Allen Oil, advocated using ethanol-blended fuels because they are a cleaner burning alternative to gasoline. He said it was important to have flex-fuel cars because they can burn an ethanol-blended fuel as well as unleaded gasoline. He referred to Yellowstone National Park where only ethanol-powered park service cars are operating this year. Because the desire to keep the park clean, they have put in an E-85 pump at Mammoth Hot Springs, and visitors buying fuel in the park have to buy E-10. He stated that he believed in ethanol-blended fuels, that sales have been soaring in Helena, and it was one way to help Montana's agriculture. He commended the two other gas stations that had applied to sell the ethanol-blend and pointed to a bright future

for this product. With respect to fuel cost, he said it would be mid-range, such as premium gasoline but not higher.

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Nancy Schlepp, Montana Farm Bureau, said she practically grew up with ethanol, being from Ringling, site of the first ethanol plant in Montana. She said its demise was attributable to the fact that it was ahead of its time and was being fought by the big oil companies, and there was a lot of misinformation at that time. Some of this applies today, too, but she told how all of their own vehicles use E-10. They are working well and are getting better gas mileage than before. She also pointed out that one by-product of the manufacturing process can be used as a cattle-feed, stressing the importance of this bill to the grain industry as well.

Con Malee, Energy West Resources, stood in support of SB 320 and suggested a couple of amendments. He asked that all alternative fuels be considered, such as propane or compressed natural gas, in a move away from gasoline. He listed a number of fleets operating on natural gas, namely at Malmstrom AFB and Montana Power. He stated that he worked to build the infrastructure that is needed to make these products work in the public sector. He said Montana Power put up millions of dollars in infrastructure only to find out that the mandates were not applicable to Montana.

Opponents' Testimony:

Steve Turkiewicz, Ex. VP, Montana Automobile Dealers'

Association, felt this proposal should be broadened to include fuels other than the E-85 blend (85% ethanol, 15% gasoline) and took offense at SB 320 stating only the Ford Taurus was equipped to burn E-85 which left out the other car manufacturers.

Informational Testimony:

Dave Galt, Montana Department of Transportation, said that in principle, he supported the merit and concept of this bill. He added that if the department had to purchase these E-85 cars, they would have to be stationed in Helena because of the fuel availability. He also wondered how they would perform in cold weather. He stated that the department was holding up the equipment bids pending the outcome of this bill, but felt the proposed number of 42 cars for the biennium was too high.

Questions from Committee Members and Responses:

SEN. JERRY O'NEIL referred to the handout where it reads that ethanol had an 80% higher energy density than gasoline. He was not sure what that meant. **SEN. KITZENBERG** referred the question to **Mike Allen**, who was not sure, either, but told of an employee who used ethanol 85% of the time and reported an increase in fuel mileage. **SEN. O'NEIL** then asked if the ethanol portion of the blend was 15%. **Mike Allen** replied it was 85% ethanol, and 15% gasoline. **CHAIRMAN HOLDEN** asked if a citizen using ethanol paid the same amount of tax as he would for gasoline. **Jim Currie, MDT**, who had accompanied **Mr. Galt**, answered in his place that the tax was the same. **CHAIRMAN HOLDEN** asked how the department would handle the issue of stations carrying this ethanol blend. **Dave Galt** replied that the department would base the cars in Helena where there was a refueling station but added that the cars could also use unleaded gas if they needed to refuel away from Helena. **SEN. ROBERT DePRATU** said because of the computerized fuel injection, the car will determine and adjust to the blend that is going through the fuel system. He also said cars run equally well on either fuel but that replacement oil filters cost more than conventional ones. **SEN. COCCHIARELLA** asked why the bill dealt with E-85 only, yet the sponsor mentioned other alternative fuels in his handouts. **SEN. KITZENBERG** said he had just wanted to share other alternatives with the committee but wanted to try ethanol first.

Closing by Sponsor:

SEN. KITZENBERG closed on SB 320 and pointed out that there were cars other than the Ford Taurus which could use the ethanol blend, namely a 1998 Chrysler minivan, the Chevy S10, and the GMC Sonoma pick-up. He also reminded the committee that burning the E-85 reduced carbon monoxide emissions by 20%. He further stated he was open to negotiating the number of cars the department should buy, and hoped the plant in Great Falls would come on line because there was an increased interest in alternative fuels.

EXECUTIVE ACTION ON SB 318

Motion/Vote: **SEN. ROUSH** moved that **SB 318 DO PASS**. Motion carried 9-0, with **SEN. DALE BERRY** excused, and **SEN. MOHL** voting by proxy.

EXECUTIVE ACTION ON SB 320

Motion: SEN. KITZENBERG moved that SB 320 DO PASS.

Discussion:

CHAIRMAN HOLDEN stated that SEN. MOHL had left some questions with him, which he would like to address. He said he was concerned with the number of vehicles the department needed to purchase, and asked Dave Galt what number would be feasible.

Dave Galt answered that he would be willing to buy 10 each year, or half of the proposed number in the bill. SEN. KITZENBERG, responding to a question from SEN. DEPRATU said he would be willing to see as little as five cars bought each year, and left the exact number up to the committee. CHAIRMAN HOLDEN repeated that the department would be willing to purchase 10. SEN.

DEPRATU thought five cars a year would be a good start but asked that the department give the next legislature a documented record of maintenance and acceptance.

Substitute Motion: SEN. DEPRATU made a substitute motion that the first AMENDMENT TO SB 320 BE ADOPTED.

Discussion:

SEN. O'NEIL suggested an amendment saying the use of other renewable fuels such as wood alcohol should be included.

CHAIRMAN HOLDEN asked to hold off on that thought, and deal with the number of cars first. SEN. COCCHIARELLA proposed another amendment, namely putting a sunset on the bill so more cars would not be bought if this was not working out.

Substitute motion carried 9-0, with SEN. BERRY excused, and SEN. MOHL voting aye, for the first amendment to SB 320.

SEN. DAN HARRINGTON stated that in the title of the bill it said "Department of Administration" and questioned if that should not be changed to "Department of Transportation". Dave Galt agreed with the suggestion, and CHAIRMAN HOLDEN said this would be a further amendment and another substitute motion should be made.

Substitute Motion: SEN. HARRINGTON made a substitute motion that the second AMENDMENT TO SB 320 BE ADOPTED.

Discussion:

Dave Galt stated that his department should approve and request the purchase, but that the Department of Administration would have to make the actual purchase. He suggested to add "MDT" to the language. Connie Erickson said this could be done in subsection (2) so it will say that MDT is requesting, of the Department of Administration, the purchase of these five cars as well as giving any other agency the opportunity to do so. SEN.

DEPRATU asked if that would include the governor since she had requested an ethanol vehicle. **Connie Erickson** replied that provision was already in the bill and pointed to Subsection (3). **CHAIRMAN HOLDEN** then asked the committee vote on **SEN.**

HARRINGTON'S motion.

Motion carried 9-0, with **SEN. BERRY** excused, and **SEN. MOHL** voting aye.

SEN. DEPRATU proposed another amendment. In section (3), he wanted to change the word "must" to "may", so a request could be the governor's choice. **CHAIRMAN HOLDEN** clarified that this language was to be found on page 2, line 9.

Motion/Vote: **SEN. DEPRATU** moved that the **3RD AMENDMENT TO SB 320 BE ADOPTED**. **Motion carried 9-0**, with **SEN. BERRY** excused, and **SEN. MOHL** voting aye.

SEN. COCCHIARELLA wanted to move to amend the bill to include a termination date, and asked **Ms. Erickson** to determine what the sunset should be. She wanted to have a chance to reconsider the vehicle purchase in the next legislative session, after having gone through the department's documented report. **Ms. Erickson** suggested to terminate it July 1, 2003.

Substitute Motion/Vote: **SEN. COCCHIARELLA** made a substitute motion that **A 4TH AMENDMENT TO SB 320 BE ADOPTED**. **Substitute motion carried 9-0**, with **SEN. BERRY** excused, and **SEN. MOHL** voting aye.

CHAIRMAN HOLDEN brought up another of **SEN. MOHL'S** concerns, namely that the bill might be too restrictive to Ford products.

SEN. KITZENBERG stated he had already addressed that point by having listed other options earlier. **CHAIRMAN HOLDEN** replied that the other cars mentioned were older models, and wanted to know if any new vehicles were available by these other manufacturers. **SEN. DEPRATU** stated that the manufacturers who do not have an ethanol car in their line yet are working towards providing at least one model capable of using ethanol. **SEN. COCCHIARELLA** repeated **SEN. O'NEIL'S** suggestion regarding the use of other alternative fuels, and wondered if the language could be broadened to accommodate this. **SEN. DEPRATU** replied that the only other alternative available was electric cars, and they did not perform well in winter conditions.

Motion/Vote: **SEN. KITZENBERG** moved that **SB 320 DO PASS AS AMENDED**. **Motion carried 9-0**, with **SEN. BERRY** excused, and **SEN. MOHL** voting aye.

EXECUTIVE ACTION ON SB 3

Motion: SEN. KITZENBERG moved that AMENDMENT SB 000301.ACE BE ADOPTED.

Discussion:

SEN. KITZENBERG handed out EXHIBIT(his32a04), Amendment #SB000301.ace, and said he requested this to clarify that it was not his intention to put all other highway projects on hold with SB 3. He also suggested to extend item (4) to the year 2011, rather than 2010 as written. He reiterated that he was looking for federal funds for this project that do not require a state match so no other projects would be jeopardized. CHAIRMAN HOLDEN asked the department to comment on the amendments. Dave Galt thanked the senator for adding the amendments and said he had seen them but referred to Jim Currie to speak on behalf of the department. Jim Currie felt that the way the amendment was written could preclude the department from seeking earmarked federal funding for 10 years. He knew, though, that it was meant to clarify and not impact other projects. He asked for permission to go through each point of the amendment and offer suggestions. Under (4), he suggested if the department was to seek federal funding that did not require a state match, it should not wait that long, and offered to change the language to read "... must be included in any fiscal plan developed by the department". Under (2), he suggested striking "commission" and inserting "the legislature", and under (3), he would like to see "The department may not expend any resources on the U.S. highway 2 project that would jeopardize any future highway projects". He felt this would allow the department to work more quickly with the congressional delegation to see what earmarked funds were available that did not require the state match, and would enable the department to start with the preliminary work. CHAIRMAN HOLDEN invited SEN. KITZENBERG to comment on the department's suggestions. SEN. KITZENBERG felt the suggestions were excellent and withdrew his initial motion.

Motion/Vote: SEN. KITZENBERG moved that AMENDMENT AS PER THE DEPARTMENT BE ADOPTED. Motion carried 9-0, with SEN. BERRY excused, and SEN. MOHL voting aye.

Motion: SEN. KITZENBERG moved that SB 3 DO PASS AS AMENDED.

Discussion:

SEN. GLENN ROUSH complimented SEN. KITZENBERG for his cooperation on getting a bill that may have a chance to get through the legislature, benefitting the people along the Hi-Line. He admitted that there still were some if's with regards to funding but the way it was amended, it did give the department some

leeway. **SEN. O'NEIL** asked if Highway 2 would be all four-lane or if there were two-lane portions. **SEN. KITZENBERG** answered it would be four-lane wherever feasible. **CHAIRMAN HOLDEN** asked **Mr. Currie** to speak to this. **Mr. Currie** asked for some leeway, especially with regards to the route through Glacier National Park as well as through other environmentally sensitive areas. **CHAIRMAN HOLDEN** asked if he could agree to the bill in its current form, or if he wanted to propose another amendment. **Mr. Currie** asked for a little time to think it over. **SEN. KITZENBERG** agreed that there were some areas, such as Glacier Park, where a two-lane would have to be considered, and suggested to amend the title to read "to construct a four-lane highway wherever feasible along the present route", and **Ms. Erickson** said this could be done. **SEN. KITZENBERG** then asked the department if they could agree to that, and **Mr. Galt** replied that because of its broad impact, he would not be able to prove purpose and need when preparing the environmental assessments, and it would become environmentally unfeasible. He suggested to leave the word "generally" in to prevent any future snags. **CHAIRMAN HOLDEN** then asked what he should tell his constituents if he voted for this bill, in light of the fact that there are no paved state highways, just graveled highways, in his district. **SEN. KITZENBERG** suggested he could say that no state funds were being used for this project, and it benefitted the whole state. **Motion/Vote: Motion carried 9-0**, with **SEN. BERRY** excused, and **SEN. MOHL** voting aye.

EXECUTIVE ACTION ON SB 300

Motion: **SEN. COCCHIARELLA** moved that **SB 300 DO PASS**.

Discussion:

SEN. COCCHIARELLA requested an amendment for line 12, after the word "transportation", to strike "or" and insert "and". **SEN. O'NEIL** thought the word "or" should stay in to give the governor the discretion to act upon just one department's request. **SEN. DEPRATU** disagreed and said that in an emergency, all departments would be available to the governor, and that the Department of Transportation had the expertise to advise the governor as to what was safe and doable with regards to what other departments had requested. **SEN. O'NEIL** agreed with his reasoning and was willing to go along.

Motion/Vote: **SEN. HOLDEN** moved that **AMENDMENT TO SB 300 BE ADOPTED. Motion carried 9-0**, with **SEN. BERRY** excused, and **SEN. MOHL** voting aye.

Motion/Vote: SEN. COCCHIARELLA moved that **SB 300 DO PASS AS AMENDED**. Motion carried 9-0, with SEN. BERRY excused, and SEN. MOHL voting aye.

Amendment #SB 032001.ace **EXHIBIT(his32a05)**, Amendment #SB000301.ace **EXHIBIT(his32a06)**, and Amendment #SB030001.ace **EXHIBIT(his32a07)** were handed in to the secretary on the following day, February 9, 2001.

ADJOURNMENT

Adjournment: 4:40 P.M.

SEN. ARNIE MOHL, Chairman

MARION MOOD, Secretary

AM/MM

EXHIBIT (his32aad)